

[Act 1995 No 53]



New South Wales

Disorderly Houses Amendment Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Disorderly Houses Act 1943*:
- to remove the habitual use of premises for prostitution from the grounds for declaring premises to be a disorderly house, and
 - to enable a local council to apply to the Land and Environment Court for an order that a brothel operating in the council's area be closed down (or a prescribed authority in the case of land outside a local government area), and

* Amended in committee—see table at end of volume.

- (b) to amend the *Summary Offences Act 1988*:
- to provide that it is not an offence for a person who owns, manages or is employed in a brothel to live on the earnings of prostitution of another person, and
 - to create an offence of inducing a person, by coercive conduct or undue influence, to commit an act of prostitution or to surrender the proceeds of an act of prostitution, and
- (c) to amend the *Crimes Act 1900* to abolish the common law offence of keeping a common bawdy house or brothel, and
- (d) to amend the *Land and Environment Court Act 1979* consequentially.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the *Disorderly Houses Act 1943*.

Clause 4 is a formal provision that gives effect to the Schedule of related amendments to certain other Acts.

Schedule 1 Amendment of Disorderly Houses Act 1943

Schedule 1 [4] removes from the list of grounds for declaring premises a disorderly house the ground that the premises are habitually used for the purpose of prostitution.

Schedule 1 [7] inserts new provisions into the Act relating to brothels (defined by Schedule 1 [2] as meaning premises habitually used for the purposes of prostitution, or that have been used for that purpose and are likely to be used again for that purpose, whether by one or more prostitutes).

Proposed section 16 prevents premises being declared a disorderly house solely because the premises are a brothel or because a person involved in the control or management of the premises has previously been involved in the control or management of a brothel declared to be a disorderly house.

Proposed section 17 enables the Land and Environment Court to make an order against an owner or occupier of premises used as a brothel that the owner or occupier not use or allow the premises to be used as a brothel if the council for the local government area in which the brothel is situated applies for the making of the order. The council must not make the application unless it has received complaints from residents of the area living or using facilities in the vicinity of the brothel or occupiers of premises situated in the area in the vicinity and it must base the application on one or more of the specified considerations that the Land and Environment Court must take into account when determining the application. Those considerations include whether the operation of the brothel causes disturbance of the neighbourhood because of hours of operation, creation of noise or the amount of traffic, whether the brothel is operating near or within view from a church, hospital, school or place regularly frequented by children for recreational or cultural activities and whether the operation of the brothel interferes with the amenity of the neighbourhood. The proposed clause extends to areas that are not local government areas and enables a prescribed authority to make an application in such a case.

Proposed section 18 enables the Land and Environment Court to make appropriate rules of court in relation to the operation of the new provisions.

Proposed section 19 enables regulations to be made for the purposes of the Act.

Schedule 1 [5] enables the Supreme Court to receive an application to rescind a declaration of premises as a disorderly house if the premises could not have been declared a disorderly house after the new amendments.

Schedule 1 [1]–[3] and [6] contain consequential amendments.

Schedule 2 Related amendment of other Acts

Crimes Act 1900

Schedule 2.1 abolishes the common law offence of keeping a common bawdy house or brothel.

Land and Environment Court Act 1979

Schedule 2.2 includes applications under proposed section 17 of the *Disorderly Houses Act 1943* in Class 4 of the jurisdiction of the Land and Environment Court (environmental planning protection and development contract civil enforcement).

Summary Offences Act 1988

Schedule 2.3 [1] provides that it is not an offence for a person who owns, manages or is employed in a brothel to live on the earnings of prostitution of another person.

Schedule 2.3 [2] makes it an offence for a person, by coercive conduct or undue influence, to cause or induce another person to commit an act of prostitution or to surrender the proceeds of an act of prostitution. The maximum penalty is 50 penalty units (currently \$5,000) or imprisonment for 12 months, or both. The provisions relating to child prostitution in the *Crimes Act 1900* are not affected.

Schedule 2.3 [3] is consequential on the amendment made to the *Crimes Act 1900*.